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GREEN DIAMOND RESOURCE COMPANY  
9

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 OAKLAND DIVISION  
13

14 ENVIRONMENTAL PROTECTION  
15 INFORMATION CENTER,

16 Plaintiff

17 v.

18 PAUL SOUZA, in his official capacity as  
Acting Director of the U.S. Fish and Wildlife  
Service; and U.S. FISH AND WILDLIFE  
19 SERVICE,

20 Defendants.  
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Case No. 4:25-cv-03049-JST

**GREEN DIAMOND RESOURCE  
COMPANY'S ANSWER TO  
PLAINTIFF'S AMENDED  
COMPLAINT**

Action Filed: April 3, 2025  
Trial Date: None

**ANSWER**

Defendant-Intervenor Green Diamond Resource Company (Green Diamond), in response to Environmental Protection Information Center's (Plaintiff) Amended Complaint for Declaratory and Injunctive Relief (Complaint), answers as follows:

**INTRODUCTION**

1. Answering Paragraph 1, the allegations consist of Plaintiff's characterizations of its Complaint and legal conclusions to which no response is required. The Biological Opinion (BiOp), Incidental Take Statement (ITS), Habitat Conservation Plan (HCP), and Incidental Take Permit (ITP) referenced in the Complaint speak for themselves and no further response is required. As to any remaining allegations in this Paragraph, Green Diamond is without sufficient information to form a belief as to their truth, and, on that basis, denies them.

**JURISDICTION**

2. Answering Paragraph 2, Green Diamond admits that Plaintiff provided 60 days' notice of its intent to sue Defendant United States Fish and Wildlife Service (FWS) on September 17, 2020, over alleged violations of the ESA, and that an (updated) notice of intent was sent on February 12, 2025, and received by FWS on February 14, 2025. To the extent that allegations in this Paragraph consist of legal conclusions, no response is required. As to any remaining allegations in this Paragraph, Green Diamond is without sufficient information to form a belief as to their truth, and, on that basis, denies them.

3. Answering Paragraph 3, the allegations in this Paragraph include legal conclusions to which no response is required. As to any remaining allegations in this Paragraph, Green Diamond is without sufficient information to form a belief as to their truth, and, on that basis, denies them.

**VENUE**

4. Answering Paragraph 4, Green Diamond admits that the decisions made by FWS at issue in this litigation pertain to privately-owned lands that are located within this judicial district. To the extent the allegations in this Paragraph consist of legal conclusions, no response is required.

1 As to any remaining allegations in this Paragraph, Green Diamond is without sufficient information  
2 to form a belief as to their truth, and, on that basis, denies them.

### 3 **DIVISIONAL ASSIGNMENT**

4 5. Answering Paragraph 5, the allegations in this Paragraph consist of legal  
5 conclusions to which no response is required. As to any remaining allegations in this Paragraph,  
6 Green Diamond is without sufficient information to form a belief as to their truth, and, on that basis,  
7 denies them.

### 8 **PARTIES**

9 6. Answering Paragraph 6, this Paragraph includes allegations purporting to describe  
10 the activities of Plaintiff and its claimed members. As to such allegations, Green Diamond is  
11 without sufficient information to form a belief as to their truth, and, on that basis, denies them. As  
12 to any remaining allegations in this Paragraph, Green Diamond denies them.

13 7. Answering Paragraph 7, the allegations in this Paragraph include descriptions of  
14 purported past and future activities of Plaintiff and its claimed members. As to such allegations,  
15 Green Diamond is without sufficient information to form a belief as to their truth, and, on that basis,  
16 denies them. Green Diamond denies that the HCP and ITP at issue in this litigation frustrate  
17 Plaintiff's mission and harm the interests its members and staff hold in northern spotted owls,  
18 marbled murrelets, and their forest habitats. As to any remaining allegations in this Paragraph,  
19 Green Diamond denies them.

20 8. Answering Paragraph 8, Green Diamond admits that at the time Plaintiff filed its  
21 Complaint, Paul Souza was Acting Director of FWS and that he is sued in his official capacity.  
22 The remaining allegations in this Paragraph consist of legal conclusions to which no response is  
23 required.

24 9. Answering Paragraph 9, Green Diamond admits that FWS is a federal agency within  
25 the U.S. Department of the Interior, and that FWS approved the BiOp, ITP, and HCP at issue in  
26 this litigation. The remaining allegations in this Paragraph consist of legal conclusions or  
27 characterizations of Plaintiff's claims to which no response is required.  
28

**FACTS**Northern Spotted Owl (*Strix occidentalis caurina*)

10. Answering Paragraph 10, the allegations in this Paragraph consist of Plaintiff's characterizations of the administrative record; those documents speak for themselves and no response is required. As to any remaining allegations in this Paragraph, Green Diamond is without sufficient information to form a belief as to their truth, and, on that basis, denies them.

11. Answering Paragraph 11, the allegations in this Paragraph consist of Plaintiff's characterizations of the administrative record; those documents speak for themselves and no response is required. As to any remaining allegations in this Paragraph, Green Diamond is without sufficient information to form a belief as to their truth, and, on that basis, denies them.

12. Answering Paragraph 12, the allegations in this Paragraph consist of Plaintiff's characterizations of the administrative record; those documents speak for themselves and no response is required. As to any remaining allegations in this Paragraph, Green Diamond is without sufficient information to form a belief as to their truth, and, on that basis, denies them.

13. Answering Paragraph 13, the allegations in this Paragraph consist of Plaintiff's characterizations of the administrative record; those documents speak for themselves and no response is required. As to any remaining allegations in this Paragraph, Green Diamond is without sufficient information to form a belief as to their truth, and, on that basis, denies them.

14. Answering Paragraph 14, the allegations in this Paragraph consist of Plaintiff's characterizations of the administrative record; those documents speak for themselves and no response is required. As to any remaining allegations in this Paragraph, Green Diamond is without sufficient information to form a belief as to their truth, and, on that basis, denies them.

15. Answering Paragraph 15, the allegations in this Paragraph consist of Plaintiff's characterizations of the administrative record; those documents speak for themselves and no response is required. As to any remaining allegations in this Paragraph, Green Diamond is without sufficient information to form a belief as to their truth, and, on that basis, denies them.

16. Answering Paragraph 16, the allegations in this Paragraph consist of Plaintiff's characterizations of the administrative record; those documents speak for themselves and no

1 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
2 sufficient information to form a belief as to their truth, and, on that basis, denies them.

3 17. Answering Paragraph 17, the allegations in this Paragraph consist of Plaintiff's  
4 characterizations of the administrative record; those documents speak for themselves and no  
5 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
6 sufficient information to form a belief as to their truth, and, on that basis, denies them.

7 18. Answering Paragraph 18, the allegations in this Paragraph consist of Plaintiff's  
8 characterizations of official actions, documents, and statements made by FWS; those actions,  
9 documents, and statements speak for themselves and no response is required. The allegations in  
10 this Paragraph consist of Plaintiff's characterizations of the administrative record; those documents  
11 speak for themselves and no response is required. As to any remaining allegations in this  
12 Paragraph, Green Diamond is without sufficient information to form a belief as to their truth, and,  
13 on that basis, denies them.

14 19. Answering Paragraph 19, the allegations in this Paragraph consist of Plaintiff's  
15 characterizations of the administrative record; those documents speak for themselves and no  
16 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
17 sufficient information to form a belief as to their truth, and, on that basis, denies them.

18 20. Answering Paragraph 20, the allegations in this Paragraph consist of Plaintiff's  
19 characterizations of the administrative record; those documents speak for themselves and no  
20 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
21 sufficient information to form a belief as to their truth, and, on that basis, denies them.

22 21. Answering Paragraph 21, the allegations in this Paragraph consist of Plaintiff's  
23 characterizations of the administrative record; those documents speak for themselves and no  
24 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
25 sufficient information to form a belief as to their truth, and, on that basis, denies them.

26 22. Answering Paragraph 22, the allegations in this Paragraph consist of Plaintiff's  
27 characterizations of the administrative record; those documents speak for themselves and no  
28

1 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
2 sufficient information to form a belief as to their truth, and, on that basis, denies them.

3 23. Answering Paragraph 23, the allegations in this Paragraph consist of Plaintiff's  
4 characterizations of the administrative record; those documents speak for themselves and no  
5 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
6 sufficient information to form a belief as to their truth, and, on that basis, denies them.

7 24. Answering Paragraph 24, the allegations in this Paragraph consist of Plaintiff's  
8 characterizations of the administrative record; those documents speak for themselves and no  
9 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
10 sufficient information to form a belief as to their truth, and, on that basis, denies them.

11 25. Answering Paragraph 25, the allegations in this Paragraph consist of Plaintiff's  
12 characterizations of the administrative record; those documents speak for themselves and no  
13 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
14 sufficient information to form a belief as to their truth, and, on that basis, denies them.

15 26. Answering Paragraph 26, the allegations in this Paragraph consist of Plaintiff's  
16 characterizations of the administrative record; those documents speak for themselves and no  
17 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
18 sufficient information to form a belief as to their truth, and, on that basis, denies them.

19 27. Answering Paragraph 27, the allegations in this Paragraph consist of Plaintiff's  
20 characterizations of the administrative record; those documents speak for themselves and no  
21 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
22 sufficient information to form a belief as to their truth, and, on that basis, denies them.

23 28. Answering Paragraph 28, the allegations in this Paragraph consist of Plaintiff's  
24 characterizations of the administrative record; those documents speak for themselves and no  
25 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
26 sufficient information to form a belief as to their truth, and, on that basis, denies them.

27 29. Answering Paragraph 29, the allegations in this Paragraph consist of Plaintiff's  
28 characterizations of the administrative record; those documents speak for themselves and no

1 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
2 sufficient information to form a belief as to their truth, and, on that basis, denies them.

3 30. Answering Paragraph 30, the allegations in this Paragraph consist of Plaintiff's  
4 characterizations of the administrative record; those documents speak for themselves and no  
5 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
6 sufficient information to form a belief as to their truth, and, on that basis, denies them.

7  
8 Marbled Murrelet (*Brachyramphus marmoratus*)

9 31. Answering Paragraph 31, Green Diamond's response is admit.

10 32. Answering Paragraph 32, the allegations in this Paragraph consist of Plaintiff's  
11 characterizations of the administrative record; those documents speak for themselves and no  
12 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
13 sufficient information to form a belief as to their truth, and, on that basis, denies them.

14 33. Answering Paragraph 33, the allegations in this Paragraph consist of Plaintiff's  
15 characterizations of the administrative record; those documents speak for themselves and no  
16 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
17 sufficient information to form a belief as to their truth, and, on that basis, denies them.

18 34. Answering Paragraph 34, the allegations in this Paragraph consist of Plaintiff's  
19 characterizations of the administrative record; those documents speak for themselves and no  
20 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
21 sufficient information to form a belief as to their truth, and, on that basis, denies them.

22 35. Answering Paragraph 35, the allegations in this Paragraph consist of Plaintiff's  
23 characterizations of the administrative record; those documents speak for themselves and no  
24 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
25 sufficient information to form a belief as to their truth, and, on that basis, denies them.

26 36. Answering Paragraph 36, the allegations in this Paragraph consist of Plaintiff's  
27 characterizations of official actions, documents, and statements made by FWS; those actions,  
28 documents, and statements speak for themselves and no response is required.

1           37. Answering Paragraph 37, the allegations in this Paragraph consist of Plaintiff's  
2 characterizations of the administrative record; those documents speak for themselves and no  
3 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
4 sufficient information to form a belief as to their truth, and, on that basis, denies them.

5           38. Answering Paragraph 38, the allegations in this Paragraph consist of Plaintiff's  
6 characterizations of the administrative record; those documents speak for themselves and no  
7 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
8 sufficient information to form a belief as to their truth, and, on that basis, denies them.

9  
10           Climate and ecosystem change in northern California

11           39. Answering Paragraph 39, the allegations in this Paragraph consist of Plaintiff's  
12 characterizations of the administrative record; those documents speak for themselves and no  
13 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
14 sufficient information to form a belief as to their truth, and, on that basis, denies them.

15           40. Answering Paragraph 40, the allegations in this paragraph consist of Plaintiff's  
16 characterizations of Green Diamond's land ownership, which is a matter of public record, and the  
17 administrative record; those documents speak for themselves and no response is required. As to  
18 any remaining allegations in this Paragraph, Green Diamond is without sufficient information to  
19 form a belief as to their truth, and, on that basis, denies them.

20           41. Answering Paragraph 41, the allegations in this Paragraph consist of Plaintiff's  
21 characterizations of the administrative record; those documents speak for themselves and no  
22 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
23 sufficient information to form a belief as to their truth, and, on that basis, denies them.

24  
25           Green Diamond Resource Company HCP

26           42. Answering Paragraph 42, Green Diamond admits that it is a privately-owned timber  
27 company based in Seattle, Washington. The remaining allegations in this Paragraph consist of  
28 Plaintiff's characterizations of Green Diamond's land ownership, which is a matter of public



1 record, and the administrative record; those documents speak for themselves and no response is  
2 required. As to any remaining allegations in this Paragraph, Green Diamond is without sufficient  
3 information to form a belief as to their truth, and, on that basis, denies them.

4 43. Answering Paragraph 43, the allegations in this Paragraph consist of Plaintiff's  
5 characterizations of the administrative record; those documents speak for themselves and no  
6 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
7 sufficient information to form a belief as to their truth, and, on that basis, denies them.

8 44. Answering Paragraph 44, the allegations in this Paragraph consist of Plaintiff's  
9 characterizations of the administrative record; those documents speak for themselves and no  
10 response is required. As to any remaining allegations in this Paragraph, Green Diamond is without  
11 sufficient information to form a belief as to their truth, and, on that basis, denies them.

12 45. Answering Paragraph 45, the HCP referenced in the Complaint speaks for itself and  
13 no further response is required. The remaining allegations consist of Plaintiff's characterizations  
14 of official actions, documents, and statements made by FWS, other public records concerning  
15 implementation of the HCP, and the administrative record; those actions, documents, and  
16 statements speak for themselves and no response is required. As to any remaining allegations in  
17 this Paragraph, Green Diamond is without sufficient information to form a belief as to their truth,  
18 and, on that basis, denies them.

19 46. Answering Paragraph 46, the allegations in this Paragraph consist of Plaintiff's  
20 characterizations of the administrative record, as well as actions, documents, and statements made  
21 by FWS; those documents, actions, and statements speak for themselves and no response is  
22 required. As to any remaining allegations in this Paragraph, Green Diamond is without sufficient  
23 information to form a belief as to their truth, and, on that basis, denies them.

#### 24 **FIRST CLAIM FOR RELIEF**

##### 25 **Violations of Section 7 of the Endangered Species Act**

26 47. Answering Paragraph 47, Green Diamond incorporates all of its responses set forth  
27 above.  
28

48. Answering Paragraph 48, the allegations in this Paragraph consist of Plaintiff's characterizations of a federal statute; that statute speaks for itself and no response is required.

49. Answering Paragraph 49, the allegations in this Paragraph consist of Plaintiff's characterizations of a federal statute; that statute speaks for itself and no response is required.

50. Answering Paragraph 50, the allegations in this Paragraph consist of Plaintiff's characterizations of a federal statute and federal regulation; that statute and regulation speak for themselves and no response is required.

## COUNT 1

## FWS's Northern Spotted Owl Biological Opinion is Arbitrary and Capricious and Violates the ESA

51. Answering Paragraph 51, Green Diamond incorporates all of its responses set forth above as if fully set forth herein.

52. Answering Paragraph 52, the allegations in this Paragraph include legal conclusions to which no response is required. The HCP and BiOp referenced in the Complaint speak for themselves and no further response is required. Green Diamond denies the remaining allegations.

53. Answering Paragraph 53, the allegations in this Paragraph include legal conclusions to which no response is required. The HCP and BiOp referenced in the Complaint speak for themselves and no further response is required. Green Diamond denies the remaining allegations.

54. Answering Paragraph 54, the allegations in this Paragraph include legal conclusions to which no response is required. The HCP and BiOp referenced in the Complaint speak for themselves and no further response is required. The allegations in this Paragraph include Plaintiff's characterizations of the administrative record; those documents speak for themselves and no response is required. Green Diamond denies the remaining allegations.

55. Answering Paragraph 55, the allegations in this Paragraph include legal conclusions to which no response is required. The HCP, ITP, and BiOp referenced in the Complaint speak for themselves and no further response is required. The allegations in this Paragraph include Plaintiff's characterizations of the administrative record; those documents speak for themselves and no response is required. Green Diamond denies the remaining allegations.

56. Answering Paragraph 56, the allegations in this Paragraph include legal conclusions to which no response is required. The HCP and BiOp referenced in the Complaint speak for themselves and no further response is required. The allegations in this Paragraph include Plaintiff's characterizations of the administrative record; those documents speak for themselves and no response is required. Green Diamond denies the remaining allegations.

57. Answering Paragraph 57, the allegations in this Paragraph include legal conclusions to which no response is required. The HCP and BiOp referenced in the Complaint speak for themselves and no further response is required. The allegations in this Paragraph include Plaintiff's characterizations of the administrative record; those documents speak for themselves and no response is required. Green Diamond denies the remaining allegations.

58. Answering Paragraph 58, the allegations in this Paragraph include legal conclusions to which no response is required. The BiOp referenced in the Complaint speaks for itself and no further response is required. The allegations in this Paragraph include Plaintiff's characterizations of the administrative record; those documents speak for themselves and no response is required. Green Diamond denies the remaining allegations.

**COUNT 2**

## **FWS’s “No Effects” Determination for Marbled Murrelet is Arbitrary and Capricious and Violates the ESA.**

59. Answering Paragraph 59, Green Diamond incorporates all of its responses set forth above.

60. Answering Paragraph 60, the allegations in this Paragraph consist of Plaintiff's characterizations of a federal statute and regulation; that statute and regulation speak for themselves and no response is required.

61. Answering Paragraph 61, the allegations in this Paragraph include Plaintiff's characterizations of the BiOp and administrative record; those documents speak for themselves and no response is required. As to any remaining allegations in this Paragraph, Green Diamond is without sufficient information to form a belief as to their truth, and, on that basis, denies them.

62. Answering Paragraph 62, the allegations in this Paragraph include Plaintiff's characterizations of the BiOp and administrative record; those documents speak for themselves and

1 no response is required. As to any remaining allegations in this Paragraph, Green Diamond is  
2 without sufficient information to form a belief as to their truth, and, on that basis, denies them.

3 63. Answering Paragraph 63, the allegations in this Paragraph consist of Plaintiff's  
4 characterizations of the 2010 Master Agreement with the California Department of Fish and  
5 Wildlife; that document speaks for itself and no response is required. As to any remaining  
6 allegations in this Paragraph, Green Diamond is without sufficient information to form a belief as  
7 to their truth, and, on that basis, denies them.

8 64. Answering Paragraph 64, the allegations in this Paragraph consist of Plaintiff's  
9 characterizations of the 2010 Master Agreement with the California Department of Fish and  
10 Wildlife; that document speaks for itself and no response is required. As to any remaining  
11 allegations in this Paragraph, Green Diamond is without sufficient information to form a belief as  
12 to their truth, and, on that basis, denies them.

13 65. Answering Paragraph 65, the allegations in this Paragraph contain legal conclusions  
14 to which no response is required. As to any remaining allegations in this Paragraph, Green  
15 Diamond denies them.

### 16 COUNT 3

#### 17 **FWS's Decision to Approve Green Diamond's Habitat Conservation Plan and to Issue the 18 Incidental Take Permit Violates its Duty to Avoid Jeopardy to Northern Spotted Owls.**

19 66. Answering Paragraph 66, Green Diamond incorporates all of its responses set forth  
20 above.

21 67. Answering Paragraph 67, the allegations in this Paragraph consist of Plaintiff's  
22 characterizations of a federal statute; that statute speaks for itself and no response is required.

23 68. Answering Paragraph 68, the allegations in this Paragraph consist of Plaintiff's  
24 characterizations of the BiOp and administrative record; those documents speak for themselves and  
25 no response is required.

26 69. Answering Paragraph 69, the allegations in this Paragraph consist of legal  
27 conclusions to which no response is required. The BiOp, HCP, and ITP referenced in the Complaint  
28 speak for themselves and no response is required. As to any remaining allegations in this  
Paragraph, Green Diamond denies them.



1           78.     Answering Paragraph 78, the allegations in this Paragraph include Plaintiff's  
2 characterizations of the ITP, HCP, and administrative record; those documents speak for  
3 themselves and no response is required.

4           79.     Answering Paragraph 79, the allegations in this Paragraph consist of Plaintiff's  
5 characterizations of the HCP and administrative record; those documents speak for themselves and  
6 no response is required. As to any remaining allegations in this Paragraph, Green Diamond denies  
7 them.

8           80.     Answering Paragraph 80, the allegations in this Paragraph consist of Plaintiff's  
9 characterizations of the HCP and administrative record; those documents speak for themselves and  
10 no response is required. As to any remaining allegations in this Paragraph, Green Diamond denies  
11 them.

12          81.     Answering Paragraph 81, the allegations in this Paragraph include Plaintiff's  
13 characterizations of the HCP and administrative record; those documents speak for themselves and  
14 no response is required. As to any remaining allegations in this Paragraph, Green Diamond denies  
15 them.

16          82.     Answering Paragraph 82, the allegations in this Paragraph include Plaintiff's  
17 characterizations of the HCP and administrative record; those documents speak for themselves and  
18 no response is required. The allegations in this Paragraph include legal conclusions to which no  
19 response is required. As to any remaining allegations in this Paragraph, Green Diamond denies  
20 them.

21          83.     Answering Paragraph 83, the allegations in this Paragraph consist of legal  
22 conclusions to which no response is required. As to any remaining allegations in this Paragraph,  
23 Green Diamond denies them.

24                   **PRAYER FOR RELIEF**

25           Answering Paragraphs A through I of the Complaint's Prayer for Relief on page 18 and 19,  
26 Green Diamond denies each of those allegations and contends Plaintiff is not entitled to any relief  
27 whatsoever.

28                   \*\*\*

**AFFIRMATIVE DEFENSES**

Without admitting any of Plaintiff's allegations, or agreeing that Green Diamond bears any burden of proof, Green Diamond asserts the following affirmative defenses:

**FIRST AFFIRMATIVE DEFENSE**

(Failure to State a Claim)

Plaintiff fails to allege facts sufficient to support a plausible claim for which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

(Statute of Limitations)

Plaintiff's alleged claims are barred in whole or in part by the applicable statutes of limitations.

**THIRD AFFIRMATIVE DEFENSE**

(Failure to Provide Adequate Notice)

Each claim for relief in the Complaint is barred and/or limited because Plaintiff failed to provide adequate notice as required under applicable statutes, including 16 U.S.C. § 1540(g).

**FOURTH AFFIRMATIVE DEFENSE**

(Lack of Standing)

The Complaint fails to present an actual case or controversy within the meaning of Article III of the U.S. Constitution.

**FIFTH AFFIRMATIVE DEFENSE**

(Equitable Doctrines)

Plaintiff's conduct does not support the issuance of any injunctive relief under equitable precepts, including unclean hands, estoppel, waiver and laches.

**SIXTH AFFIRMATIVE DEFENSE**

(Violation of Fifth Amendment)

Application of the federal Endangered Species Act as urged by Plaintiff under the circumstances presented here would run afoul of the Fifth Amendment to the U.S. Constitution.

**SEVENTH AFFIRMATIVE DEFENSE**

(Reservation of Rights to Assert Additional Defenses)

Green Diamond has not knowingly or voluntarily waived any applicable affirmative defenses and reserves the right to assert and rely on such other applicable affirmative defenses as may become available or apparent during subsequent proceedings. Green Diamond reserves the right to amend its answer to add or delete affirmative defenses.

**RELIEF REQUESTED**

Green Diamond respectfully asks that:

1. Plaintiff take nothing by reason of the Complaint or any claims stated therein;
2. Judgment of dismissal with prejudice be entered in favor of Defendants Paul Souza and U.S. Fish and Wildlife Service and Defendant-Intervenor Green Diamond, and against Plaintiff with respect to each claim pleaded in the Complaint;
3. Green Diamond be awarded its reasonably incurred fees and costs; and,
4. The Court grant such other and further relief as it may deem just and proper.

Respectfully submitted,

DATED: May 8, 2025

PAUL HASTINGS LLP

By: 

CHRISTOPHER J. CARR

Attorneys for Defendant-Intervenor  
GREEN DIAMOND RESOURCE COMPANY